

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

FRANCOIS MARTELET,	:	CIVIL ACTION
	:	
Plaintiff,	:	
	:	
v.	:	NO. 09-cv-2925-JD
	:	
AVAX TECHNOLOGIES, INC.; JOHN	:	
K.A. PRENDERGAST; EDSON D. DE	:	
CASTRO; ANDREW W. DAHL; and	:	
CARL SPANA,	:	
	:	
Defendants.	:	

O R D E R

AND NOW, this 2nd day of May, 2012, upon consideration of Plaintiff's Motion for Partial Summary Judgment (Document Nos. 51–57, filed May 17, 2011), Defendant's [sic] Response in Opposition to the Motion for Partial Summary Judgment of Plaintiff, Francois Martelet (Document No. 82, filed December 30, 2011), Plaintiff, Francois Martelet's, Reply to Defendants' Response to Plaintiff's Motion for Partial Summary Judgment (Document No. 84, filed January 6, 2012), Motion of Counter-Defendant, Francois Martelet, for Summary Judgment to Dismiss Counterclaims of Counter-Plaintiff (Document Nos. 69–78, filed December 9, 2011), Memorandum of Law in Opposition to Memorandum of Law in Support of Counter-Defendant, Francois Martelet's, Motion for Summary Judgment to Dismiss Counterclaims of Counter-Plaintiff, AVAX Technologies, Inc. (Document No. 83, filed December 30, 2011), Counter-Defendant, Francois Martelet's, Reply to Counter-Plaintiff, AVAX Technologies, Inc.'s, Response to Motion for Summary Judgment (Document No. 86, filed January 6, 2012), Defendants' Motion for Summary Judgment (Document No. 79, filed December 9, 2011), and

Plaintiff, Francois Martelet's, Response to Defendants' Motion for Summary Judgment (Document No. 81, filed December 30, 2011), for the reasons set forth in the Memorandum dated May 2, 2012, **IT IS ORDERED** as follows:

1. Plaintiff's Motion for Partial Summary Judgment is **GRANTED** as to plaintiff's entitlement to wages and benefits that accrued between April 9, 2009, and June 17, 2009, and interest thereon, and **DENIED** in all other respects. The amount of plaintiff's claim for such wages and benefits presents a question of fact for the jury.

2. The Motion of Counter-Defendant, Francois Martelet, for Summary Judgment to Dismiss Counterclaims of Counter-Plaintiff, AVAX Technologies, Inc. is **GRANTED**.

3. Defendants' Motion for Summary Judgment is **DENIED**.

4. At the request of defendants in their Memorandum of Law in Opposition to Memorandum of Law in Support of Counter-Defendant, Francois Martelet's, Motion for Summary Judgment to Dismiss Counterclaims of Counter-Plaintiff, AVAX Technologies, Inc., plaintiff's claim for detrimental reliance (Count III) is **DISMISSED WITH PREJUDICE**.

5. Plaintiff's claim for unjust enrichment (Count IV) is **DISMISSED WITH PREJUDICE** for the same reasons that the Court dismisses plaintiff's claim for detrimental reliance.

IT IS FURTHER ORDERED that the Court will conduct a telephone conference in due course to schedule further proceedings.

BY THE COURT:

/s/ Hon. Jan E. DuBois
JAN E. DUBOIS, J.